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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,455	11/10/2005	David J. Chatting	36-1948	1307
23117 7590 10/03/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER RUSH, ERIC				
ART UNIT		PAPER NUMBER		
2624				
MAIL DATE		DELIVERY MODE		
10/03/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/556,455

Applicant(s)

CHATTING ET AL.

Examiner

ERIC RUSH

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date 6/10/2008
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is responsive to the amendments and remarks received on 6/10/2008. Claims 1 – 4 and 6 – 8 are currently pending.

Double Patenting

2. The rejections to claims 1 – 8 on the grounds of non-statutory obviousness-type double patenting are withdrawn in view of the terminal disclaimer filed 6/10/2008.

Claim Rejections - 35 USC § 101

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. The rejections to claims 4 – 5 under 35 U.S.C. § 101 are withdrawn in view of the amendment and remarks received on 6/10/2008.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1 and 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the amendments entered 6/10/2008 the claims have been amended to further define "intended size" to be defined as "*outer boundaries encompassing a caricatured image to be generated*". The Examiner can not find support for the new definition of intended size in the original disclosure and as such the claims are rejected under 112 first paragraph as new matter.

7. Claims 2 – 4 and 7 – 8 are also rejected under 35 U.S.C. 112, first paragraph, as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1, 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Massarsky U.S. Patent No. 6,385,628 in view of Ramm et al. U.S. Publication No. 2006/0257013 A1.

- With regards to claims 1 and 4 - 6, Massarsky teaches a method, system, and computer program for generating a caricatured image, (Massarsky, Column 5 Lines 25 - 36) comprising the steps of: determining a caricature level value in dependence on an intended size of the caricatured image to be generated; (Massarsky, Column 6 Lines 20 - 65, Column 6 Line 66 - Column 7 Line 4, Massarsky discloses adjusting the scale which would alter the caricature image by stretching and/or condensing the image) and generating the caricatured image using the caricature level value thus determined. (Massarsky, Column 7 Lines 5 - 16) Massarsky fails to specifically teach determining a caricature level value in dependence on an intended size of the caricatured image to be generated. Ramm et al. teach wherein a process of image enhancement is dependent upon the size of an image. (Ramm et al., Pages 10 - 11 Paragraph 0171, this reads on the claimed limitation because the intended size may be the same size as the input) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Massarsky with the teachings of Ramm et al. This modification would be prompted in order to make a more computational image transformation/enhancement process

and system wherein regions of an image that are too small to have noticeable changes made are given less processing time and power for modification.

Response to Arguments

11. Applicant's arguments, see pages 8-14 of the remarks, filed 6/10/2008, with respect to the rejection(s) of claim(s) 2-3 and 7-8 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.
12. Applicant's arguments with respect to claims 1, 4 and 6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC RUSH whose telephone number is (571)270-3017. The examiner can normally be reached on 7:30AM - 5:00PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samir Ahmed can be reached on (571) 272-7413. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ER

/Samir A. Ahmed/

Supervisory Patent Examiner, Art Unit 2624